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1947.

File No. Essen. Commodities II/47 Pt. II

Local **DEPARTMENT**

R **BRANCH**

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Subject.—

K.S.R.
23/5

Rules and Notifications under the Defence (Essential Commodities and Cattle Control) Act, 1946.

For previous papers pl. see pt. I

File No. Essen. Commodities II/47 Pt II

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II

C O N T E N T S.

Legal Department File No. Essential Commodities II/47 Part II.

S.No.	Compilation No.	Subject	Pages.
		The Bombay Essential Commodities and Cattle (Control) Act,1946.	
1.	U.O. to H.D.No. 7182 dt.12.7.47	Secs. 4 & 6 - Orders under -	1 - 8
2.	U.O. to P.& S.D.No. 7448 dt. 19.7.47	Secs.3- Giving retrospective effect etc. - Opinion regarding.	9-10
3.	U.O. to A.R.D.D.No. 8361 dt. 14.8.47.	Sec.4 - Order under -	11-14.
4.	C.M.A.R.D.D.No. 298 dated 24.9.47	Secs.4(1)(b) & 5 - Notification under	15- 18 (PP. 15-18 not typed.)
5.	U.O. to A & R.D.No. 10380 dated 30.10.47	Sec.4 & 6 - Notifications under.	19-24.
6.	U.O. to H.D.No. 11425 dated 29.11.47	Making "motor vehicles" an Essential Commodity under - Opinion regarding -	25 - 26.
7.	U.O. to A.R.D.D.No. 13313 dtd.23.12.47	Putting Total Registration on groundnut oil - cakes. -	27-28.
8.	U.O. to P.& S.D.No. 13493 dtd.30.12.47	Secs. 4 5 and 6 - Notifications under	29-34.

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1615
K.S.R.
1615

Agriculture and Rural Development Department,

Bombay Castle, July 1947.

ORDER.

Bombay Essential Commodities and Cattle (Control) Act, 1946.

No. 9940. - In exercise of the powers conferred by section 8 of the Bombay Essential Commodities and Cattle (Control) Act, 1946 (Bom.XXII of 1946), the Government of Bombay is pleased to direct that the powers of the Provincial Government to make orders under section 4 of the said Act in relation to matters specified in column 1 of the Schedule hereto appended, shall be also exercisable by the officers specified in column 2 thereof within the areas specified against them in column 4 thereof in respect of the essential commodity specified against them in column 3 of the said ~~schedule~~ schedule.

Schedule.

Matters	Officers	Essential Commodity.	Areas.
1.	2.	3.	4.
Matters specified in clauses(b) and (h) of sub-section (2) of section 4, in so far as they relate to the movement, transport, distribution, disposal use, consumption or the furnishing of any information.	Secretary, Agriculture and Rural Development Department.	Groundnut oil cake.	The Provinc of Bombay.
Matters specified in clauses(h) of sub-section(2) of section4, inso so far as they relate to furnishing any information.	District Magistrates.	- do -	Areas within their respecti ve jurisdicti
- do -	Director of Civil Supplies, Bombay.	- do -	The City of Bombay and the Bombay Sub-urban district

P.T.O.

Matters.	Officers.	Essential Commodity	Areas.
1.	2.	3.	4.
			as constituted immediately before the 1st day of October 1945.

By order of the Governor of Bombay,

Secretary to Government.

4-...
I.V.V.
14/5.

Agriculture and Rural Development Department,

Bombay Castle, July 1947.

O R D E R.

Bombay Essential Commodities and Cattle (Control) Act,1946.

No. 99 - C.- In exercise of the powers conferred by section 4 of the Bombay Essential Commodities and Castle (Control) Act, 1946(Bom. XXII of 1946), and in supersession of Government Notification in the Civil Supplies Department, No.45-IV-4, dated the 15th July 1946, the Government of Bombay is pleased to direct that no person in charge of an oil mill run on power machinery (i.e. expellers or rotaries or hydraulic presses) holding, whether on his own account or on account of the person owning the mill or on account of or in partnership with any other person, any stocks of groundnut oilcakes in quantities exceeding 25 Bengal maunds at any godown or other place of storage within the limits of the Province of Bombay, shall remove from the said godown or place or dispose of the said stocks, or any portion thereof, except under and in accordance with the conditions of a permit granted by the Secretary, Agriculture and Rural Development Department or by the District Magistrate of the district in which the stocks are held.

(2) In the City of Bombay and the Bombay Suburban District, the Additional Director of Civil Supplies (Enforcement), or the officers authorized by him, and elsewhere, the Revenue Officers of and above the grade of Mamlatdars within their respective jurisdictions may enter and search any premises or seize any articles in respect of which they have reason to believe that a contravention of this Order has been, is being or is about to be committed.

P.T.O.

Explanation:- For the purposes of this Order, the "Bombay Suburban District" means the Bombay Suburban District as constituted immediately before the 1st day of October 1945.

By order of the Governor of Bombay,

Secretary to Government.

4-Cs.
M.V.V.
14/5.

Agriculture and Rural Development Department,
Bombay Castle, July 1947.

O R D E R.

Bombay Essential Commodities and Cattle (Control) Act, 1946.

No.99-C. - In exercise of the powers conferred by section 4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946(Bom. XXIV of 1946), and in supersession of Government Notification in the Civil Supplies Department, No.45(g) - IV - A, dated the 15th July 1946, the Government of Bombay is pleased to direct that every person in charge of an oil mill run on power machinery (i.e. expellers, rotaries and hydraulic presses) shall, on every Monday beginning with 1947, furnish -

(i) if such stocks are held in the City of Bombay and the Bombay Suburban District, to the Director of Civil Supplies, Bombay, and

(ii) if such stocks are held elsewhere, to the District Magistrate of the district in which such stocks are held,

a full and correct statement in the form appended hereto of the stocks of groundnut oilcakes held by him, whether on his own account or on account of any person owning the mill or on account of or in partnership with any other person, on the Saturday immediately preceding such Monday, if such stocks amount to 25 Pengal maunds or more. Copies of such statements shall also be sent as soon as may be to the Secretary to Government, Agriculture and Rural Development Department.

(2) In the City of Bombay and the Bombay Suburban District, the Additional Director of Civil Supplies (Enforcement), or the officers authorised by him, and elsewhere, the Revenue Officers of and above the grade of Mamlatdars within their respective jurisdictions may enter and search any premises or seize any articles in respect of ~~this~~ which they have reason to believe that a contravention of this Order has been , is being or is about to be committed.

P.T.O.

Explanation :- For the purposes of this Order, the "Bombay Suburban District" means the Bombay Suburban District as constituted immediately befoer the 1st day of October 1945.

By order of the Governor of Bombay,

Secretary to Government.

4-Cs.
M.V.V.
14/5.

Office of the R.L.A.

Revised draft Orders I, II and III are sent herewith.

2. Revised draft Order I :- This Order correspondes to the Agriculture and Rural Development Department draft Order at p. 77. It is presumed that the intention is to delegate to the Secretary, Agriculture and Rural Development Department, the powers of the Provincial Government in ~~x~~ respect of matters specified in column 1 of the Schedule to the draft Order in respect of the whole Province of Bombay. It is further presumed that the intention is to authorize the Director of Civil Supplies, Bombay, to exercise the powers mentioned in column 1 of the Sbhedule to the draft Order only in respect of the City of Bombay and the Bombay Suburban District.

3. Revised draft Orders II and III :- The Agriculture and Rural Development Department draft Order at p.79 ante purports to delegate to certain Officers the powers of the Provincial Government under clause (j) of sub-section (2) of section 4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946. That clause empowers Government to make an order providing for any incidental and supplemental matters. It is clear that any provisions made in exercise of the powers conferred by clause (j) shall only be incidental ~~incidental~~/and supplemental to any main Order, which the Provincial Government is competent to make under section 4. The main Order which are proposed to be made in the present case are at pages 81 and 83 ante and it is presumed that the intention of the draft Order at p. ~~79~~ 79 is to authorize the Officers mentioned in that Order to enter, search and seize any articles in respect of which a contravention of the main Orders takes place. The provisions of the draft Order at p. 79 are ~~pix~~ accordingly incorporated in the main Orders i.e. in

P.T.O.

the revised draft Orders II and III. The Agriculture and Rural Development Department should verify whether the revised draft orders are in accordance with their intention.

4. Revised draft Order I, ~~X~~ which is proposed to be made under section 6 of the Act is a notified Order and will have to be published in the Official Gazette. Revised draft Orders II and III which are proposed to be made under section 4 should be published in the manner prescribed by rules made under section 16. (see section 6 of the Act).

Sd/- D.V.Vyas.

Remembrancer of Legal Affairs.

U.R. to A.R.D. No.7182, dated the 12th July 1947.

L.Cs.
D.V.V.
14/5.

Office of the D.L.A.

The draft Order at pages 25-26 ante as amended is in order.

2. By virtue of section 5 of the Bombay Essential Commodities and Cattle (Control) Act, 1946, all Orders made under the Defence of India Rules in respect of any essential commodity or cattle and in force immediately before the commencement of the Act shall in so far as they could validly have been made under the provisions of the Act, be deemed to have been made thereunder. The Government of India Order No. 129- I - P.S/46, dated the 6th July 1946 in its application to the Province of Bombay was then in force immediately before 1st October 1946, the date on which the Bombay Essential Commodities and Cattle (Control) Act, 1946 came into force and could have been quite validly made under the Act. The Government of India Order therefore continues in force and it would be necessary to supersede it in so far as it applies to the province of Bombay. The necessary provision for the purpose is inserted in the draft Order at pages 25-26 ante.

3. It would not be possible to give retrospective effect to the Order as proposed. Clause 3 of the draft Order is therefore deleted.

4. As the Order is of a general nature it will, in addition to its publication in the B.G.G., have to be published in the manner prescribed by rules made in that behalf under section 16 of the Act (see section 6).

Sd/- D.V.Vyas.
Remembrancer of Legal Affairs.

U.O.No. to P. and G.Deptt. No.7448, dated the 19th July 1947.

L-Co.

N.V.V.
14/5.

Office of the R.L.A.

It appears that the intention is that persons in charge of oil mills run on power machinery should sell to Government stocks of groundnut oilcakes equivalent in quantity to the stocks for which a release order has been issued to them under Government Order No. 99-G(b), dated the 16th July 1947. To achieve this object, it would be necessary to issue an order under clause (d) of sub-section (1) of section 4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946 requiring such persons to sell to Government the specified quantity of groundnut oilcakes. Unless such an order is issued, it would not be obligatory on such persons to sell to Government any more stocks of named groundnut oilcakes. A draft order to that effect is prepared and sent herewith. It will be necessary for the Agriculture and Rural Development Department to ascertain every time a permit is granted under Order No.99-G(b), dated the 16th July 1947 to a person to remove or dispose of stocks of groundnut oilcakes that such person has an equivalent quantity of such stocks which he could sell to Government.

2. Another draft order amending Government Order No. 99-G(b), dated the 16th July 1947 is also sent herewith. Under the order as amended, the persons in charge of oil mills will have to make applications for permits specifying therein therein required details. The Agriculture and Rural Development Department should verify whether the draft orders sent herewith carry out their intentions. If not, the Department is requested to send its own drafts for R.L.A's consideration and scrutiny.

-d/- D.V.Vyas,
Remembrancer of Legal Affairs.

U.R. to Agriculture and Rural Development Department, No.8361 dated the 14th August 1947.

4-Co.
H.V.V.
14/8.

Agriculture and Rural Development Department,

Bombay Castle, August 1947.

Order.

Bombay Essential Commodities and Cattle (Control) Act, 1946.

No. .-In exercise of the powers conferred by section 4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946 (Bom. XXII of 1946), the Government of Bombay is pleased to order that every person in charge of an oil mill, run on power machinery (i/e. expellers or rotaries or hydraulic presses) in the Province of Bombay, shall sell to the Secretary to Government Agriculcute and Rural Development Department, every xxxxxx time a permit is granted to him under Government Order, Agriculture and Rural Development Department No.99-G(b), dated the 18th July 1947, stocks of groundnut oil ohves held by him equivalent in quantity to the stocks for the removal or disposal of which permit is granted under the said Order within days of the grant of such permit at a maxka rate not exceeding Rs.80/- per ton, ex-godown of the mill, and deliver the said quantity to the person authorised in that behalf by the said Secretary to Government.

Note:- The rate prescribed in this Order is inclusive of the cost of sound second hand gunny bags without any holes or patching or stitching and darning on the surface of the bags.

By order of the Governor of Bombay,

Secretary to Government.

H.V.V./14.5
4-Gs.

Office of the R.I.A.

Revised draft Orders in place of the draft Order at p.12 ante are sent herewith.

2. Under section 2 of the Bombay Essential Commodities and Cattle (Control) Act, 1946, it is necessary to specify in the Order itself the Officer or authority to whom the power of the Provincial Government to make orders under section 4 is delegated. The proposal of the A.R.D. to delegate such power to an officer authorised by the Secretary, Agriculture and Rural Development Department is not therefore legally feasible. To meet A.R.D.'s difficulty the revised draft Order No.I provides specifically for the delegation of power to the Assistant Secretary in the absence of the Secretary.

3. It is not necessary to amend Government Order No.99 G(c) dated 18/7/47 as proposed by A.R.D. for, under that Order only copies of statements have to be sent to the Secretary to Government. In the absence of the Secretary such copies can be received by any other officer on his behalf.

4. Under clause (d) of section 4(2) of the Act it is necessary to specify the person or class of persons to whom stocks of essential commodities have to be sold. The A.R.D. proposal to amend Government Order No. 1523-G, dated 21-2-47 so as to require persons in charge of oil mills to sell stocks of ground-nut oil cakes to the officer authorised by the Secretary to Government is not therefore in order. The Order in question has been amended so as to require persons in charge of oil mills to sell stocks to the Secretary and in his absence to the Assistant Secretary. The A.R.D. should verify whether these revised draft Orders are suitable.

Sd/- S.D.Palekar,
For Remembrancer of Legal Affairs.

U.R. to A & R.D. No.10320, dated the 30th October 1947.

4-Cs.
U.V.V./14-5.

Agriculture and Rural Development Department,
Bombay Castle, October 1947.

ORDER.

Bombay Essential Commodities and Cattle (Control) Act, 1946.

No. .. In exercise of the powers conferred by section 8 of the Bombay Essential Commodities and Cattle (Control) Act, 1946, (Bom.XXII of 1946), the Government of Bombay is pleased to amend Government Order in the Agriculture and Rural Development Department No. 99-G(a), dated the 18th July 1947, as follows, namely,

In column 2 of the Schedule appended to the said Order, after the word "Secretary" the words" and in his absence, Assistant Secretary," shall be inserted.

By order of the Governor of Bombay,

Secretary to Government.

4-Co.

U.V.V.
14/5.

II

Agriculture and Rural Development Department,

Bombay Castle, October 1947.

ORDER.

No. 99-G(c).- In exercise of the powers conferred by section 4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946 (Bom. XXII of 1946), the Government of Bombay is pleased to amend Government Orders specified in column 1 of the Schedule hereto annexed in the manner and to the extent specified in column 2 thereof, as follows, namely:-

Schedule.

1	2
1. Government Order, Agriculture and Rural Development Department No.99-G(b), dated the 12th July, 1947.	To paragraph 1, the words "or any officer duly authorised by him in this behalf" shall be added.
2. Government Order, Agriculture and Rural Development Department No.1623-G, dated the 21st August 1947.	After the words "Development Department" where they occur for the first time the words "and in his absence to the Assistant Secretary of the said Department" and after the words "the said Secretary to Government" the words "or the Assistant Secretary to Government, as the case may be" shall be inserted.

By order of the Governor of Bombay,

Secretary to Government.

4-Co.
K.V.V.
14/5.

Office of the H.L.A.

The expression "Essential Commodity" as defined in clause (2) of section 2 of the Bombay Essential Commodities and cattle(Control) Act, 1946, means a commodity specified in Schedule I. "Motor Vehicles" is not one of the commodities specified in Schedule I. Under section 3, however, the Provincial Government is authorised to make additions to or omissions from either Schedule by means of a Notification in the Official Gazette, and the Schedule shall, on theinx issue of the Notification, be deemed to be amended accordingly. If the Provincial Government intends to freeze motor vehicles, the relevant entry may be added to Schedule I by means of a Notification published in the Bombay Government Gazette, and an order freezing the motor vehicles can then be made under section 4 of the Act. Attention of the Home Department is, however, invited in this connection to H.L.A's opinion No.73-P-Conf1.,.dated the 5th November 1947. It would not be competent to the Provincial Government to make an order prohibiting the export of motor vehicles from the Province.

Sd/-P.V.Lad 28/11

Remembrancer of Legal Affairs.

U.R. to H.D. No.11425, dated the 29th November 1947.

4-Cs.
H.V.V.
12/5.

Office of the F.L.S.

Under the Agriculture and Rural Development Department Order No.99-G(b) dated 15th July 1947, removal of the stocks of groundnut oilcakes in quantities exceeding 25 candis was not allowed except under and in accordance with the conditions of a permit granted by the Secretary, Agriculture and Rural Development Department. The amending Order No.99-G(1) dated 21st August 1947 only prescribes the form of the application for a permit. It has since been decided by Government to control the entire production of groundnut cakes at Rs.130 per ton, and it is, therefore, stated that the question of granting permits for free sale will not arise. If that be so, the mere cancellation of the amending order No.99-G(d) dated 21st August 1947 will not be sufficient to achieve Government's purpose; since even without any prescribed form for application, it would be open to a person to apply for a permit for which provision is made in the original Order, and moreover removal in quantities not exceeding 25 candis would not be prohibited. It is a matter, therefore, for the consideration of the Department whether all reference to permits should be deleted from the original Order in addition to the a cancellation of the amending Order, and whether there should be an absolute prohibition on removal.

Sd/- P.V.Iad, 22/12
Remembrancer of Legal Affairs.

U.O. to A.R.D.D. No.13313, dated the 23rd. December 1947.

L-Sn.

U.V.V.
14/9.

Office of the R.L.A.

Section 4(2)(d) of the Bombay Essential Commodities and Cattle (Control) Act, 1946, empowers the Provincial Government to make an order providing for requiring any person holding stocks of any essential commodity to sell them at specified prices to a specified person or class of persons or in specified circumstances. From the proposal at 'B' on p.3,ante the intention appears to be not to make, in exercise of these powers, any order at present requiring any person to sell bricks to a specified person but to leave it to the Controller to make such an order when the occasion arises. It, therefore, amounts to delegating the said powers of the Provincial Government to the Controller and the proper course would be to issue a notification under section 8 of the Act directing that power under section 4(2) (d) in respect of bricks shall be exercisable by the Controller. The view taken by the p. and S.D. at 'A' on page 12 ante is correct.

2. The drafts at pages 13-15 ante, as amended, are in order.

Sd/- P.N.Lad. 29/12
Remembrancer of Legal Affairs.

U.R. to P. and S.Deptt. No.13493, dated the 30th Dec. 1947.

4-Co.
M.V.V.
14/5.

Political and Services Department,
Bombay Castle, 1947.

ORDER.

Bombay Essential Commodities and Cattle (Control) Act, 1946.

No.985/46 I - In exercise of the powers conferred by section 4 read with section 5 of the Bombay Essential Commodities and Cattle (Control) Act, 1946 (Bom.XXII of 1946), the Government of Bombay is pleased to amend with effect from the .....1947, the Brick (Control of Prices)) Order, 1945, as follows, namely:-

In the said Order for sub-clause(a) of clause 2, the following shall be substituted,namely:-

(a) "Controller" means the Assistant Housing Commissioner (Materials), Bombay, for the time being and includes any person exercising upon authorisation by the Government of Bombay, all or any of the powers of the Controller under this Order."

By order of the Governor of Bombay,

Joint Secretary to Government.

4-Cs.
M.V.V.
14/5.

Political and Services Department,
Bombay Castle, 1947.

ORDER.

Bombay Essential Commodities and Cattle (Control) Act, 1946.

No.925/46 II-. In exercise of the powers conferred by section 3 of the Bombay Essential Commodities and Cattle (Control) Act, 1946 (Bom.XXII of 1946), the Government of Bombay is pleased to direct that the powers of the Provincial Government to make orders under section ~~3~~ 4 of the said Act in respect of bricks shall, in relation to the matters specified in clause (d) of sub-section (2) of section 4 of the said Act be exercisable by the Assistant Housing Commissioner (Materials) Bombay, in the area comprising of the City of Bombay, the Bombay Suburban District and the Thana, Kalyan and Bhiwandi talukas of the Thana District.

By order of the Governor of Bombay

Joint Secretary to Government.

4-Co.

M.V.V.
14/5.